

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ESTATE OF KRISTINA ANN FIEBRINK,
by Special Administrator Nathaniel Cade,
Jr.; THE ESTATE OF ANGELICA M.
FIEBRINK; JOSE D. MARTINEZ, JR.; and
ROBERT MARTINEZ,

Case No. 2:18-cv-000832-JPS

Plaintiffs,

v.

ARMOR CORRECTIONAL HEALTH
SERVICES, INC.; VERONICA WALLACE,
LPN; BRITNEY R. KIRK, LPN; EVA
CAGE, LPN; BRANDON DECKER APNP;
MILWAUKEE COUNTY, a municipal
corporation; LATISHA AIKENS; LATRAIL
COLE; and WISCONSIN COUNTY
MUTUAL INSURANCE COMPANY,

Defendants.

DECLARATION OF RICHARD B. LEWAN, M.D.

NOW COMES Richard B. Lewan, M.D., and, pursuant to 28 U.S.C. §
1746(2), declares:

1. I am a medical doctor.
2. I have been retained by the law firm of Gingras Cates & Wachs LLP
("GCW") to provide an expert opinion on behalf of Plaintiffs.

3. I have devoted the majority of my professional time in active clinical practice as a family physician and hospitalist physician caring for patients in the clinic, hospital, nursing home and community.

4. I am board certified in family medicine.

5. My hospital practice includes many patients like Kristina Fiebrink.

6. I practiced in the State of Wisconsin for 24 years and was faculty of the Medical College of Wisconsin for 21 years before transition to my practice in Hawaii in 2008.

7. I prepared the report that has been filed with the Court as document number 221-5.

8. The opinions set forth in my report are to a reasonable degree of medical certainty and are hereby incorporated.

9. It is my opinion that Kristina was at significant risk of heroin withdrawal, as she told pre-book screening nurse and the intake nurse that she has recently used a large amount heroin, used heroin regularly, and experienced problems withdrawing from heroin in the past.

10. It is my opinion that, as an advanced practice nurse, Brandon Decker should have reviewed Kristina's medical history and ordered medication for Kristina. It is my opinion that medication would have prevented Kristina's suffering (as described more fully in my report) and death. It is also my opinion that Decker should have ordered an initial health assessment to be taken within 24 hours. It is also my opinion that Decker should have assigned Kristina to a

location where she would be closely monitored. Decker's failures to do so was deliberately indifferent to Kristina's known risk of severe withdrawal and was far below the standard of care for practitioners.

11. It is my opinion that licensed practical nurses Britney Kirk and Eva Cage should have reviewed Kristina's medical history and performed a simple visual assessment of Kristina. Both nurses knew that Kristina was supposed to be monitored closely for signs and symptoms of withdrawal; and yet they failed to perform the basic care of a visual assessment. Had they done so they would have learned that Kristina needed to be seen by a physician immediately. Kirk's and Cage's failures were deliberately indifferent to Kristina's known significant risk of withdrawal and far below the standard of care required of nurses.

12. It is my opinion that licensed practical nurse Veronica Wallace should have reviewed Kristina's medical history and ordered an initial assessment be completed by the end of the day, as practitioners were not scheduled on weekends and the date on which Wallace allegedly saw Kristina was a Friday. Wallace knew that Kristina was supposed to be monitored closely for signs and symptoms of withdrawal and Wallace knew that Kristina would not have an initial health assessment before the weekend unless it occurred on August 26. Wallace's failures were deliberately indifferent to Kristina known significant risk of severe withdrawal and was far below the standard of care required of nurses.

I declare under penalty of perjury that the foregoing is true and correct.

Executed within the United States of America on: April 1, 2019.

Richard B. Lewan M.D.

RICHARD B. LEWAN, M.D.

CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2019, I electronically filed the foregoing with the Clerk of Court of the Circuit Court for the United States District Court for the Eastern District of Wisconsin by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Respectfully submitted,

/s/ William F. Sulton

Mark L. Thomsen
William F. Sulton

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